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UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re CorporateHOPE, Ltd.

Serial Nos. 76289653 and 76289654

John M. Ballenger of Thomas, Ballenger, Vogelmann & Turner,
P.C. for CorporateHOPE, Ltd.

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115 (Tomas Vlcek, Managing Attorney).

Before Walters, Chapman, and Drost, Administrative
Trademark Judges.

Opinion by Drost, Administrative Trademark Judge:

Applicant, CorporateHOPE, Ltd., filed two applications
to register the marks CORPORATE HOPE in typed form and for
the design mark shown below:



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both for "conducting workshops, seminars, conferences, retreats and professional coaching in the field of self-improvement to enhance executive women's professional development" in International Class 41.¹

The examining attorney has refused to register applicant's marks under Section 2(d) of the Trademark Act (15 U.S.C. § 1052(d)) because of a prior registration for the mark HOPE (typed) for "educational services, namely, seminars and lectures on self-improvement to assist people in improving their personal and professional marketing skills for the purpose of obtaining employment and/or succeeding in their chosen profession" in International Class 41.² The examining attorney and applicant filed separate papers in these two applications. Because of the common record and legal issues, we are issuing a single opinion in both applications. Unless otherwise specified, when we refer to the record, we will refer to Serial No. 76289653.

The examining attorney argues that the "HOPE element in applicant's mark is the dominant and most significant

¹ Serial Nos. 76289653 (CORPORATE HOPE and design mark) and 76289654 (CORPORATE HOPE in typed form). Both applications were filed on July 23, 2001, and allege a date of first use anywhere and a date of first use in commerce of March 2001.

² Registration No. 2,089,920, issued August 19, 1997. An affidavit under Section 8 was filed on February 10, 2004.

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feature of the mark as the word element CORPORATE is used as an adjective to modify the noun HOPE." Examining Attorney's Brief at 5. The examining attorney also argues that the services are closely related as "both applicant's and registrant's educational, self improvement services are directed toward assisting people in the advancement of their careers as professionals." Id. at 7.

Applicant argues that the examining attorney has improperly dissected applicant's mark. "Consumers pronouncing Appellant's mark will emphasize the word 'CORPORATE' and this portion of Appellant's mark, makes a significant contribution to the mark as a whole, which should be given fair weight along with the remainder of the mark." Applicant's Brief at 4. Regarding the services, applicant argues that registrant's mark "is used by a company that provides programs designed to assist individuals in their development of personal and professional marketing skills for use in obtaining employment or succeeding in a chosen profession. In contrast, Appellant's programs are not focused on the skill development of individuals. Rather, Appellant offers seminars and retreats that focus on the personal transformation of professional women to further their

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personal and professional growth in both the workplace and in their daily lives." Applicant's Brief at 5.

When there is a question of likelihood of confusion, we analyze the facts as they relate to the relevant factors set out in In re Majestic Distilling Co., 315 F.3d 1311, 65 USPQ2d 1201, 1203 (Fed. Cir. 2003). See also In re E. I. du Pont de Nemours & Co., 476 F.2d 1357, 177 USPQ 563, 567 (CCPA 1973); and Recot, Inc. v. Becton, 214 F.3d 1322, 54 USPQ2d 1894, 1896 (Fed. Cir. 2000). In considering the evidence of record on these factors, we must keep in mind that "[t]he fundamental inquiry mandated by § 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods and differences in the marks." Federated Foods, Inc. v. Fort Howard Paper Co., 544 F.2d 1098, 192 USPQ 24, 29 (CCPA 1976).

We begin by comparing the similarities and dissimilarities of the marks. Registrant's mark is for the word HOPE in typed form. Inasmuch as the word HOPE is the only feature of registrant's mark, it would be the dominant feature of registrant's mark. On the other hand, applicant's marks consist of the words CORPORATE HOPE, one in typed form and one with a design. Applicant describes its design mark as follows: "The Mark consists of gold letters, a white leaf, and a dark green background."

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Response dated January 14, 2003 at 2. Both applicant's and registrant's marks contain the identical word HOPE. We note that in applicant's literature and in its drawing of its mark in application Serial No. 76289653 the word "corporate" is displayed with lower case characters and the word HOPE is in uppercase characters, which would emphasize the word HOPE. Applicant's literature also emphasizes the word HOPE, for example when referring to Candice D. Mendenhall as "Co-Founder and HOPEadvisor." The same literature also emphasizes the suggestiveness of the term "corporate":

We assist *corporations* in retaining and leveraging the skills and capabilities of high-potential and executive women.

[W]omen emerge ... reinvigorated to achieve extraordinary results within their *corporate* environments and personal lives.

CorporateHOPE offers *corporate* sponsorships.

We forge an invigorating connection between *corporate* imperatives and the accelerated personal growth of women.

These statements indicate that applicant's services are marketed to corporations and are designed to help employees achieve "extraordinary results in their corporate environment." Therefore, while we do not disregard the term "corporate," we cannot agree that it would be the dominant part of applicant's mark. Rather, as applicant

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has displayed the term in lowercase letters and the term HOPE in uppercase letters, prospective customers are similarly likely to view the term "corporate" as a subordinate term to the dominant term HOPE. The addition of the leaf design would not significantly change the commercial impression of the mark. See, e.g., Wella Corp. v. California Concept Corp., 558 F.2d 1019, 194 USPQ 419, 422 (CCPA 1977) (CALIFORNIA CONCEPT and surfer design likely to be confused with CONCEPT for hair care products).

In addition, we cannot accept applicant's argument (Brief at 3) that its mark "is a unitary term and it is the unit which creates the commercial impression." It is not clear what "unites" the two terms other than the fact that they appear in the same trademark. Indeed, applicant's design drawing shows the terms physically separated by applicant's leaf design. Furthermore, the word "corporate" appears outside the square while HOPE appears inside the square.

When we compare applicant's and registrant's marks in their entireties, we find that they share the identical term HOPE. Applicant's addition of the word "corporate" simply suggests that its services are directed to corporations or their employees. Inasmuch as there is no evidence that the term HOPE is a weak mark when applied to

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registrant's services, it would dominate the marks. The similarities in sound, appearance, and meaning between applicant's and registrant's marks outweigh the difference created by adding the word "corporate." Their commercial impressions would also be similar even with the addition of the leaf design. See In re Dixie Restaurants, 105 F.3d 1405, 41 USPQ2d 1531, 1534 (Fed. Cir. 1997) (Federal Circuit held that, despite the addition of the words "The" and "Cafe" and a diamond-shaped design to registrant's DELTA mark, there was a likelihood of confusion). The leaf design would not be verbalized and it would not change the "Hope" meaning of the registrant's mark.

Another key question in any likelihood of confusion analysis is the similarity or dissimilarity of the applicant's and registrant's goods or services. Applicant's services are "conducting workshops, seminars, conferences, retreats and professional coaching in the field of self-improvement to enhance executive women's professional development." Registrant's services are "educational services, namely, seminars and lectures on self-improvement to assist people in improving their personal and professional marketing skills for the purpose of obtaining and/or succeeding in their chosen profession." While the services are not worded identically, both

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registrant's and applicant's services involve conducting seminars on self-improvement to enhance professional development or professional skills. If the identified services do not overlap, they are, at a minimum, highly related.

Applicant argues (Brief at 5) that its "programs are not focused on the skill development of individuals," but instead "focus on the personal transformation of professional women to further their personal and professional growth in both the workplace and in their daily lives." It is not entirely clear why applicant's "seminars ... in the field of on self-improvement to enhance executive women's professional development" would not also involve personal and professional marketing skills. There is no limitation in registrant's identified services that excludes marketing its services to women also. Paula Payne Products v. Johnson Publishing Co., 473 F.2d 901, 177 USPQ 76, 77 (CCPA 1973) ("Trademark cases involving the issue of likelihood of confusion must be decided on the basis of the respective descriptions of goods"). Nor do we read limitations into a registration's identification of goods or services. Squirtco v. Tomy Corp., 697 F.2d 1038, 216 USPQ 937, 940 (Fed. Cir. 1983) ("There is no specific limitation and nothing in the inherent nature of Squirtco's

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mark or goods that restricts the usage of SQUIRT for balloons to promotion of soft drinks. The Board, thus, improperly read limitations into the registration"). Thus, registrant's services are presumed to include executive women's professional development.

Even if the services are not overlapping, for services to be related, "it has often been said that goods or services need not be identical or even competitive in order to support a finding of likelihood of confusion. Rather, it is enough that goods or services are related in some manner or that circumstances surrounding their marketing are such that they would be likely to be seen by the same persons under circumstances which could give rise, because of the marks used thereon, to a mistaken belief that they originate from or are in some way associated with the same producer or that there is an association between the producers of each parties' goods or services." In re Melville Corp., 18 USPQ2d 1386, 1388 (TTAB 1991). In this case, prospective purchasers of applicant's and registrant's services involving seminars in self-improvement would likely believe that there is some association or sponsorship as to the source of these services. In addition, based on the identification of services, applicant's argument of a difference in the

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channels of trade is not viable. We must presume that both parties market their services to executive and professional women and we do not read any limitations into the services that are not set out in the identification of services. Schieffelin & Co. v. Molson Companies Ltd., 9 USPQ2d 2069, 2073 (TTAB 1989).

Finally, applicant argues (Brief at 6) that its purchasers are "sophisticated and discriminating." While there is little evidence in the record that would support that purchasers of seminars for self-improvement are sophisticated, even if this point was amply supported by the record, "even careful purchasers are not immune from source confusion." In re Total Quality Group Inc., 51 USPQ2d 1474, 1477 (TTAB 1999). These purchasers, even if sophisticated, are likely to assume that the sources of HOPE and CORPORATE HOPE (and CORPORATE HOPE and design) for similar services are associated.

Decision: The examining attorney's refusal to register applicant's mark on the ground that it is likely to cause confusion with the cited registered mark used in connection with the identified services under Section 2(d) of the Trademark Act is affirmed.